

IN THE UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

IN RE: )  
 )  
PATRICIA L. DRAKE )  
 ) No. 18-10097  
 ) Chapter 13 (Joliet)  
Debtors ) Honorable Pamela S. Hollis  
 ) Hearing Date: 3/01/2019, 10:45 a.m.

**NOTICE OF MOTION**

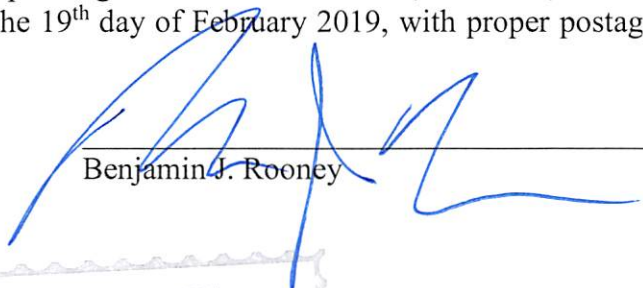
To: See attached Service List.

YOU ARE HEREBY NOTIFIED that on March 1, 2019, at 10:45 a.m. or as soon thereafter as counsel may be heard, I shall appear before The Honorable Judge Pamela S. Hollis on the 2<sup>nd</sup> Floor of the Joliet City Hall, 150 West Jefferson Street, Joliet, Illinois, and then and there present for hearing the attached MOTION FOR RELIEF FROM STAY at which time and place you may appear as you see fit to do.

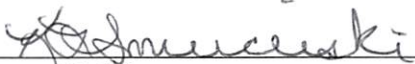
  
Benjamin J. Rooney

**PROOF OF SERVICE**

The undersigned attorney certifies that he served a true and correct copy of the foregoing electronically to all parties eligible and by depositing same in the U.S. Mail, Wheaton, Illinois addressed to the parties appearing above on the 19<sup>th</sup> day of February 2019, with proper postage prepaid.

  
Benjamin J. Rooney

SUBSCRIBED and SWORN to before me  
This 19<sup>th</sup> day of February, 2019.

  
Notary Public

KATHERINE L. SMUTINSKI  
Official Seal  
Notary Public - State of Illinois  
My Commission Expires Sep 22, 2019

#6308111  
Benjamin J. Rooney  
KEAY & COSTELLO, P.C.  
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**SERVICE LIST**

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219 South Dearborn Street, Room 873  
Chicago, Illinois 60604  
(By electronic notice through ECF)

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IN RE:	)	
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	)	No. 18-10097
	)	Chapter 13 (Joliet)
Debtors	)	Honorable Pamela S. Hollis
	)	Hearing Date: 3/01/2019, 10:45 a.m.

**MOTION FOR RELIEF FROM STAY**  
**PURSUANT TO SECTION 362 OF THE BANKRUPTCY CODE**

NOW COMES a certain creditor, KINGSBROOK CROSSING HOMEOWNERS ASSOCIATION, by and through its attorneys, KEAY & COSTELLO, P.C., and in support of its Motion for Relief, states as follows:

1. That the creditor is KINGSBROOK CROSSING HOMEOWNERS ASSOCIATION, an Illinois not-for-profit corporation and homeowners association.

2. That the Debtor, PATRICIA L. DRAKE (hereinafter referred to as the "Debtor") is the owner of residential real estate that is part of KINGSBROOK CROSSING HOMEOWNERS ASSOCIATION. Specifically, the Debtor is the owner of the property located at 406 Cobblestone Court, Oswego, Illinois 60543.

3. That pursuant to KINGSBROOK CROSSING HOMEOWNERS ASSOCIATION's governing documents, which have been recorded with the Recorder of Deeds of Kendall County, Illinois, a lien attaches to the property of the Debtor to secure unpaid assessments and other obligations arising out of ownership of a property under the jurisdiction of KINGSBROOK CROSSING HOMEOWNERS ASSOCIATION.

4. That as owner of a property at KINGSBROOK CROSSING HOMEOWNERS ASSOCIATION, the Debtor is obligated to pay assessments to KINGSBROOK CROSSING HOMEOWNERS ASSOCIATION.

5. That KINGSBROOK CROSSING HOMEOWNERS ASSOCIATION was not named as a creditor in the Debtor's Chapter 13 petition or plan and received no notice of the petition at the time it was filed.

6. As a result of KINGSBROOK CROSSING HOMEOWNERS ASSOCIATION being left out of Debtor's plan and petition, KINGSBROOK CROSSING HOMEOWNERS ASSOCIATION did not have the opportunity to file a proof of claim for its pre-petition secured debt or object to confirmation of the plan prior to the confirmation date.

7. That the confirmed plan fails to account for KINGSBROOK CROSSING HOMEOWNERS ASSOCIATION's pre-petition secured debt of \$7,258.22.

8. KINGSBROOK CROSSING HOMEOWNERS ASSOCIATION has incurred \$700.00 in attorney fees and \$181.00 in court costs as a result of Debtors' failure to remain current on their post-petition obligation to the Association. Collection of said attorney fees and court costs is authorized by the Association's Declaration.

9. Therefore, the total amount due for the pre-petition arrearage not included in the plan plus late fees, attorney fees, and court costs is \$8,139.22.

10. That pursuant to Section 362 of the Bankruptcy Code, KINGSBROOK CROSSING HOMEOWNERS ASSOCIATION moves this court for entry of an order modifying the automatic stay arising as a result of the Debtor's Chapter 13 filing.

11. That KINGSBROOK CROSSING HOMEOWNERS ASSOCIATION is entitled to relief from the automatic stay and so it may initiate collection proceedings against the Debtor

for the the pre-petition arrearage because KINGSBROOK CROSSING HOMEOWNERS ASSOCIATION was not included in the Debtor's Chapter 13 petition or plan.

12. That KINGSBROOK CROSSING HOMEOWNERS ASSOCIATION is entitled to relief from the automatic stay for the following reasons:

- a. Debtor has made material defaults under the terms of the Declaration;
- b. There is currently a continuing increase in the total indebtedness chargeable against the real estate for payment of assessments and other charges due under the Declaration which result in KINGSBROOK CROSSING HOMEOWNERS ASSOCIATION being deprived of adequate protection of its interest in the real estate; and
- c. The subject real estate is not necessary for a successful reorganization of the Debtors.

13. That KINGSBROOK CROSSING HOMEOWNERS ASSOCIATION requests waiver of the 14-day stay provision of Rule 4001(a)(3) of the Federal Rules of Bankruptcy Procedure.

WHEREFORE, the Creditor, herein, KINGSBROOK CROSSING HOMEOWNERS ASSOCIATION, prays this court enter an order modifying the stay permitting KINGSBROOK CROSSING HOMEOWNERS ASSOCIATION, to initiate collection proceedings of all pre-petition arrearage due personally from the Debtor, PATRICIA L. DRAKE, as a result of the ownership of the premises described herein, and for any such other and further relief as this court deems just and equitable within the premises.

KINGSBROOK CROSSING  
HOMEOWNERS ASSOCIATION

By:

  
\_\_\_\_\_  
Benjamin J. Rooney

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